

REMARKS

This is in response to the Office Action of November 12, 2004. In the Office Action, claims 1-21 and 40-55 were rejected and claims 22 and 23 were objected to. With this response, claims 1 and 40 are amended and all pending claims are presented for reconsideration and favorable action.

Claims 1-11, 15-19, 40-45 and 48-54 were rejected under 35 U.S.C. § 102 based upon Alt (U.S. Patent No. 6, 099,561). However, it is believed that the claims are patentably distinct from Alt. Specifically, independent claims 1, 40 and 49 are directed to a "rigid material". In contrast, the material of Alt is expandable. (See generally col. 8, lines 45 et seq.) Therefore, the rejection should be withdrawn.

Additionally, the Alt '053 embodiment referred to by the Examiner describes two layers: "a first solid layer" and "a second porous layer". (See col. 5, lines 18-20.) In contrast, independent claims 1 and 40 state that the pores are "formed in the rigid material" and independent claim 49 states that the pores substantially extend through the rigid material, and do not include a second porous layer. For this additional reason, the rejection should be withdrawn.

Claims 1-11, 14-15, 18-21, 40-45 and 47-54 were rejected under 35 U.S.C. § 102 based upon Dayton (U.S. Patent No. 5,578,075). However, it is believed that the claims are patentably distinct from this reference. Similar to Alt, the device in the Dayton reference is expandable (see col. 5, line 60) and therefore is not rigid as set forth in pending claims 1, 40 and 49. Therefore, the rejection should be withdrawn.

Independent claims 40 and 49 were also rejected under 35 U.S.C. § 102 based upon Solovay (U.S. Patent No. 5,769,884). However, it is believed that the claims are patentably distinct from this reference. Similar to Alt and Dayton, the device in the Solovay reference is expandable, including the covering 30 (see col. 3, lines 43-45), and therefore is not rigid, as set forth in independent claims 40 and 49. Further, claim 40 states that the pores are "formed in the rigid material". It is believed that Solovay shows a separate layer for forming the pores. For these reasons, it is believed that the rejection against Solovay should be withdrawn.

In view of the above amendments and remarks, it is believed that the present application is in condition for allowance. Consideration and favorable action are respectfully requested.

The Director is authorized to charge any fee deficiency required by this paper or credit any overpayment to Deposit Account No. 23-1123.

Respectfully submitted,

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